

ESTTA Tracking number: **ESTTA573068**

Filing date: **11/25/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Turn Key Wine Brands LLC
Granted to Date of previous extension	12/07/2013
Address	132 East Carrillo Street Santa Barbara, CA 93101 UNITED STATES
Attorney information	Brett Locker Schley Look Guthrie & Locker LLP 311 E. Carrillo Street Santa Barbara, CA 93101 UNITED STATES blocker@slgl-law.com Phone:805.963.4929

Applicant Information

Application No	85927375	Publication date	10/08/2013
Opposition Filing Date	11/25/2013	Opposition Period Ends	12/07/2013
Applicant	Kobrand Corporation 4th Floor Purchase, NY 10577 NY		

Goods/Services Affected by Opposition


Class 033. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Wine

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86098115	Application Date	10/22/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELL TOWN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2012/07/25 First Use In Commerce: 2013/05/07 Wines

Attachments	86098115#TMSN.jpeg(bytes) 13-11-25 Notice of Opposition - BELLTOWN.pdf(1267397 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/brett/
Name	Brett Locker
Date	11/25/2013

Brett Locker (California State Bar No.173083)
SCHLEY LOOK GUTHRIE & LOCKER LLP
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application Serial No. 85,927,375
Filed: May 9, 2013
For the Mark: BELLTOWN
Published in the Official Gazette on: October 8, 2013

Turnkey Wine Brands, LLC)	
)	
)	NOTICE OF OPPOSITION
Opposer,)	
)	
vs.)	
)	
Kobrand Corporation)	
)	
Applicant,)	

NOTICE OF OPPOSITION

- i. The Opposer is Turn Key Wine Brands LLC, a California limited liability company ("Opposer"). Opposer's address is 132 East Carrillo Street, Santa Barbara, CA 93101.
- ii. Opposer's attorneys are Brett Locker and Schley Look Guthrie & Locker LLP.
- iii. A first Request for Extension of Time Within Which to File Notice of Opposition was timely filed by Opposer and accepted by the Trademark Trial and Appeal Board on October 18, 2013.
- iv. Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby provides notice that it opposes the same.

GROUND FOR OPPOSITION

1. Kobrand Corporation ("Applicant") filed the trademark application assigned Serial Number 85,927,375 ("Applicant's Application") in the United States Patent and

Trademark Office (“PTO”) on May 9, 2013 (“Applicant’s Filing Date”) to register the mark BELLTOWN (“Applicant’s Mark”) for use in connection with “wine” in International Class 33 (“Applicant’s Goods”).

2. Applicant’s Application for trademark registration of Applicant’s Mark was filed in reliance upon § 1(b) of the Trademark Act, 15 U.S.C. §1051(b), *assumedly* on the basis of Applicant’s *bona fide* intention to use the mark in commerce.
3. Opposer is informed and believes that Applicant has not used Applicant’s Mark in commerce as of the date of this Notice of Opposition’s submission to the Trademark Trial and Appeal Board.
4. Opposer is engaged in the commercial production of wines. Opposer has used the mark BELL TOWN (“Opposer’s Mark”) in commerce in connection with the sale of wine since as early as May 7, 2013. Opposer is the owner of the exclusive right to use Opposer’s Mark in commerce in connection with wines because Opposer first used Opposer’s Mark in commerce in connection with wines before any other person or entity used in commerce Opposer’s Mark or any mark confusingly similar to Opposer’s Mark, including Applicant’s Mark.
5. Opposer filed the trademark application assigned serial number 86,098,115 (“Opposer’s Application”) in the PTO on October 22, 2013 to register Opposer’s Mark for use in connection with “wines” in International Class 33 (“Opposer’s Goods”).
6. Opposer’s Application for trademark registration of Opposer’s Mark was filed in reliance upon §1(a) of the Trademark Act, 15 U.S.C. §1051(a), on the basis of Opposer’s actual use of Opposer’s Mark in commerce.
7. Opposer’s Mark is identical or nearly identical in appearance to Applicant’s Mark, as shown by the following table:

Opposer’s Mark:	Applicant’s Mark:
BELL TOWN	BELLTOWN

8. Applicant’s Mark also is identical or nearly identical, and confusingly similar in sound, meaning and appearance, to Opposer’s Mark.
9. Applicant’s registration and use of Applicant’s Mark would likely cause confusion, mistake or deception in the minds of prospective purchasers and actual purchasers as to the origin or source of Applicant’s Goods.
10. Applicant’s registration and use of Applicant’s Mark also would likely cause confusion, mistake or deception in the minds of prospective purchasers and actual purchasers as to the origin or source of Opposer’s Goods.
11. Applicant’s Goods and Opposer’s Goods travel in the same trade channels, and are purchased by the same customers. Applicant’s Goods therefore are substantially similar, if not identical (for purposes of this proceeding) to Opposer’s Goods.
12. Purchasers familiar with Opposer’s Goods are likely to believe mistakenly that Applicant’s Goods are sourced, authorized, approved or endorsed by Opposer, or

otherwise affiliated with Opposer, because Applicant's Mark is identical to or confusingly similar to Opposer's Mark.

13. Priority is not an issue in this case because Opposer's date of first use of Opposer's Mark in commerce precedes Applicant's Filing Date and Applicant's date of first use of Applicant's Mark in commerce, *if any*.
14. For the foregoing reasons, the registration sought by Applicant is contrary to the provisions of the Lanham Act, and Opposer believes that it would be damaged thereby.

FOR THE REASONS STATED HEREIN, Opposer respectfully requests that the Trademark Trial & Appeal Board sustain this Opposition in favor of Opposer and refuse registration of the application identified by Serial No. 85,927,375.

Respectfully submitted by:

SCHLEY LOOK GUTHRIE & LOCKER LLP


By: Brett Locker
Attorneys of Record for Opposer Turn Key
Wine Brands LLC

11/25/13

The undersigned hereby certifies that a true and complete copy of the foregoing Notice of Opposition has been served on Stephen L. Baker by mailing said copy on Applicant's attorney of record, Stephen L. Baker, *via* First Class Mail, postage prepaid in an envelope addressed as follows:

Stephen L. Baker
Baker and Rannells PA
575 Route 28
Raritan, NJ 08869-1354


James O'Hara

11/25/13